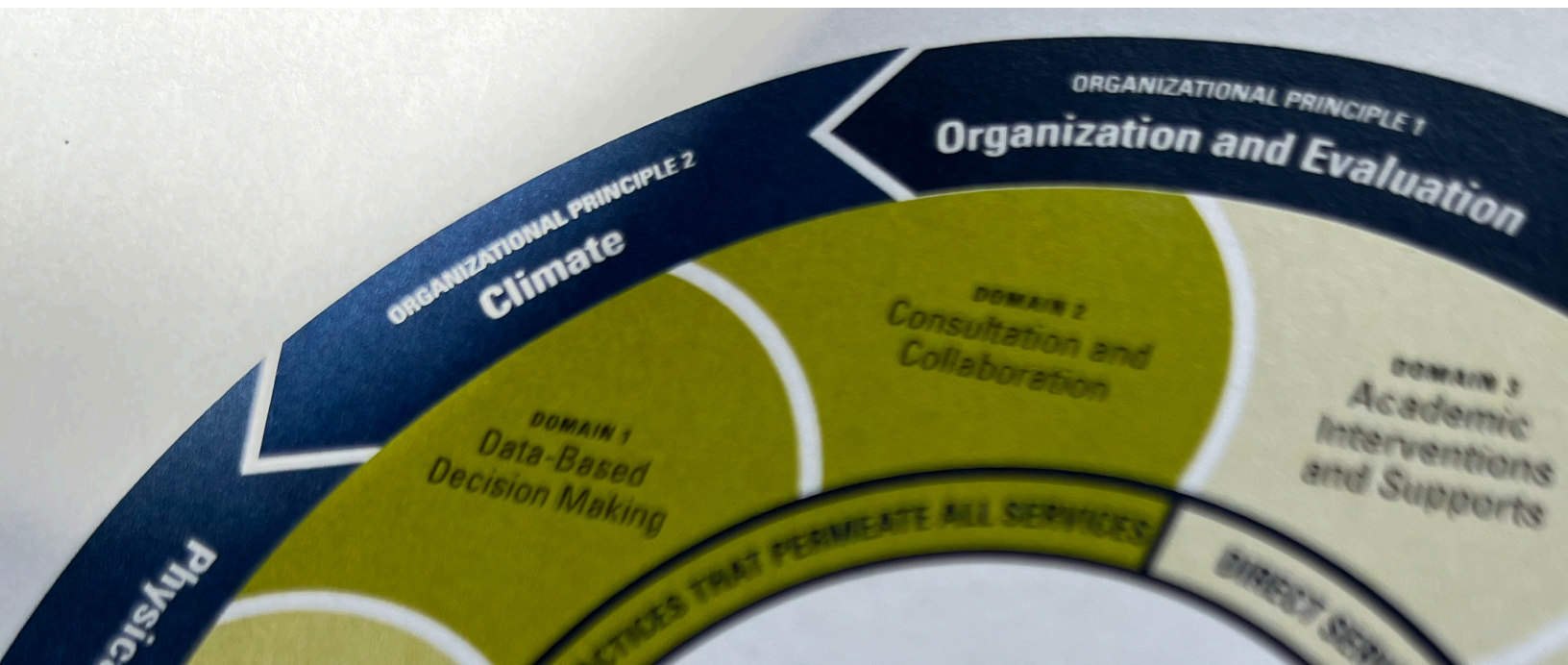


Sunrise Analysis: Regulation of School Psychologists

A Report to the Governor
and the Legislature of
the State of Hawai'i

Report No. 22-13
November 2022



OFFICE OF THE AUDITOR
STATE OF HAWAII



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Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the Governor and the Legislature to help them make informed decisions.

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Sunrise Analysis: Regulation of School Psychologists

SENATE CONCURRENT RESOLUTION No. 122, Senate Draft 1 (2022 Regular Session) requests the Office of the Auditor to assess whether the regulation of school psychologists proposed in Senate Bill No. 1274 (2021 Regular Session) (SB 1274) is consistent with the State’s policy regarding professional regulation and licensing in the Hawai‘i Regulatory Licensing Reform Act, Chapter 26H, Hawai‘i Revised Statutes (HRS). SB 1274, however, does not sufficiently define the practice of school psychology that the Legislature proposes to regulate; it does not describe the work or type of work for which individuals will be required to obtain a state-issued license to perform. Without a clear definition of the practice of school psychology, we are unable to assess the proposed regulation against the criteria in Section 26H-2, HRS, to determine whether the regulation of school psychologists is consistent with state policy. We are, therefore, unable to provide the requested sunrise analysis of the proposed regulation of school psychologists.

SB 1274 does not sufficiently define the practice of school psychology that the Legislature proposes to regulate; it does not describe the work or type of work for which individuals will be required to obtain a state-issued license to perform.

Sunrise Assessment Criteria

UNDER SECTION 26H-6, HRS, new regulatory measures being considered for enactment that would subject unregulated professions to licensing or other regulatory controls shall be referred to the auditor for analysis. This analysis “shall set forth the probable effects of the proposed regulatory measure and assess whether its enactment is consistent with the policies set forth in Section 26H-2.” Section 26H-2, HRS, states:

Policy. *The legislature hereby adopts the following policies regarding the regulation of certain professions and vocations:*

- (1) The regulation and licensing of professions and vocations shall be undertaken only where reasonably necessary to protect the health, safety, or welfare of consumers of the services; the purpose of regulation shall be the protection of the public welfare and not that of the regulated profession or vocation;*
- (2) Regulation in the form of full licensure or other restrictions on certain professions or vocations shall be retained or adopted when the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered by the provider;*
- (3) Evidence of abuses by providers of the service shall be accorded great weight in determining whether regulation is desirable;*
- (4) Professional and vocational regulations which artificially increase the costs of goods and services to the consumer shall be avoided except in those cases where the legislature determines that this cost is exceeded by the potential danger to the consumer;*
- (5) Professional and vocational regulations shall be eliminated when the legislature determines that they have no further benefits to consumers;*
- (6) Regulation shall not unreasonably restrict entry into professions and vocations by all qualified persons; and*
- (7) Fees for regulation and licensure shall be imposed for all vocations and professions subject to regulation; provided that the aggregate of the fees for any given regulatory program shall not be less than the full cost of administering that program.*

SB 1274 defines the “practice of school psychology” as “the application of principles, methods, and procedures of measurement, prediction, evaluation, testing, counseling, consultation, and instruction *related to, and consistent with, the national standards articulated by the most current Model for Comprehensive and Integrated School Psychological Services, as published by the National Association of School Psychologists* or its successor, in a school setting.” (Emphasis added.) The National Association of School Psychologists’ Model for Comprehensive and Integrated School Psychological Services (referred to as the NASP Practice Model), however, does not contain standards from which one can reasonably determine what constitutes the practice of school psychology; specifically, it does not define the scope or boundaries of the practice.¹

¹ The National Association of School Psychologists (NASP) is a professional association that has a program that awards the professional designation of “Nationally Certified School Psychologist.” A NASP document dated 2020 and titled “The Professional Standards of the National Association of School Psychologists” includes a “Model for Comprehensive and Integrated School Psychological Services,” “Standards for Graduate Preparation of School Psychologists,” “Standards for Credentialing of School Psychologists,” and “Principles of Professional Ethics.”

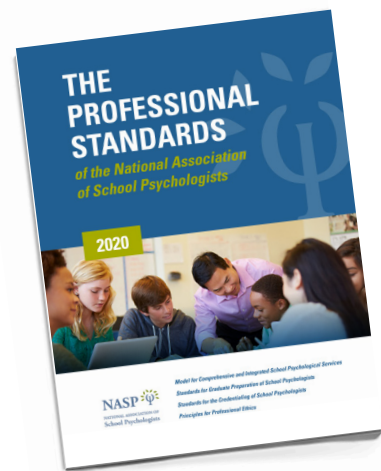
The NASP Practice Model, which was last revised in 2020, consists of two sections, one called “*Professional Practices*” which describes the responsibilities of individual school psychologists and another called “*Organizational Principles*” which describes the responsibilities of school systems to support school psychological services. The *Professional Practices* section contains ten “domains of practice” that the National Association of School Psychologists considers to be the “core components” of the NASP Practice Model. However, according to the NASP Practice Model, “[t]he 10 domains provide a *general frame of reference for basic competencies* that school psychologists should possess.” (Emphasis added.) Our review of the NASP Practice Model confirmed that the domains are broad, general descriptions of the basic knowledge, judgment, and skills that, according to the National Association of School Psychologists, school psychologists need, not the scope of the practice of school psychology. For example, Domain One, identified as “Data-Based Decision Making,” states:

School psychologists understand and utilize assessment methods for identifying strengths and needs; for developing effective interventions, services, and programs; and for measuring progress and outcomes within a multitiered system of supports. School psychologists use a problem-solving framework as the basis for all professional activities. School psychologists systematically collect data from multiple sources as a foundation for decision making at the individual, group, and systems level, and consider ecological factors (e.g., classroom, family, and community characteristics) as a context for assessment and intervention.

The remaining domains are similarly written.²

² The NASP Practice Model collectively provides more than 100 examples of the basic knowledge, judgment, and skill associated with the delivery of services. However, we found these examples are also broadly written and remain unclear as to the actual services and to whom the services are being provided. For example:

- Domain 5: School-Wide Practices to Promote Learning, the NASP Practice Model includes professional and leadership practices associated with school-wide promotion of learning such as: “School psychologists work with others to develop and maintain positive school climates and learning environments that support resilience and academic growth, promote high rates of academic engagement and attendance, and reduce negative influences on learning and behavior.”
- Domain 7: Family, School, and Community Collaboration, the NASP Practice Model includes examples of professional practices associated with family, school, and community collaboration including: “School psychologists use evidence-based strategies to design, implement, and evaluate effective policies and practices that promote family, school, and community partnerships to enhance learning and mental and behavioral outcomes for children and youth.”
- Domain 8: Equitable Practices for Diverse Student Populations, one of the examples of professional practices that respect diversity and promote equity include: “School psychologists apply their understanding of the influence of culture, background, and individual characteristics when designing and implementing interventions to achieve optimal learning and behavioral outcomes.”



Domain 4: Mental and Behavioral Health Services and Interventions

School psychologists understand the biological, cultural, developmental, and social influences on mental and behavioral health; behavioral and emotional impacts on learning; and evidence-based strategies to promote social–emotional functioning.

School psychologists, in collaboration with others, design, implement, and evaluate services that promote resilience and positive behavior, support socialization and adaptive skills, and enhance mental and behavioral health.

Domain 5: School-Wide Practices to Promote Learning

School psychologists understand systems’ structures, organization, and theory; general and special education programming; implementation science; and evidence-based school-wide practices that promote learning, positive behavior, and mental health. School psychologists, in collaboration with others, develop and implement practices and strategies to create and maintain safe, effective, and supportive learning environments for students and school staff.

Domain 6: Services to Promote Safe and Supportive Schools

School psychologists understand principles and research related to social–emotional well-being, resilience, and risk factors in learning, mental and behavioral health, services in schools and communities to support multitiered prevention and health promotion, and evidence-based strategies for creating safe and supportive schools. School psychologists, in collaboration with others, promote preventive and responsive services that enhance learning, mental and behavioral health, and psychological and physical safety and implement effective crisis prevention, protection, mitigation, response, and recovery.

Domain 10: Legal, Ethical, and Professional Practice

School psychologists have knowledge of the history and foundations of school psychology; multiple service models and methods; ethical, legal, and professional standards; and other factors related to professional identity and effective practice as school psychologists. School psychologists provide services consistent with ethical, legal, and professional standards; engage in responsive ethical and professional decision making; collaborate with other professionals; and apply professional work characteristics needed for effective practice as school psychologists, including effective interpersonal skills, responsibility, adaptability, initiative, dependability, technological competence, advocacy skills, respect for human diversity, and a commitment to social justice and equity.

SOURCE: THE PROFESSIONAL STANDARDS OF THE NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS

We spoke with representatives from the National Association of School Psychologists and discussed whether the NASP Practice Model provides a definition for the practice and a scope of services. The Professional Development and Standards Director said the NASP Practice Model is “designed to identify *the competencies* that school psychologists can reasonably expect to have and to be able to provide. It is not a scope of practice. It is not written to be a scope of practice per se.” (Emphasis added.) He also noted that two of the domains – Domain Eight: “Equitable Practices for Diverse Student Populations” and Domain Ten: “Legal, Ethical, and Professional Practice” – are intended to provide guidance on how school psychologists are expected to operate professionally rather than identifying actual services.

Without a clear definition of the practice of school psychology, we are unable to assess whether regulation of the profession is necessary to protect the health, safety, or welfare of students, their families, and educators or any of the other criteria that supports the state policy with respect to professional and vocational licensing. We, therefore, are unable to provide the assessment requested in Senate Concurrent Resolution No. 122, Senate Draft 1.³

³ We note that, without a definition of the practice, the public has no ability to understand whether an individual must be licensed as a school psychologist to perform certain work. Specifically, how will the public identify qualified practitioners? (See, Questions a Legislator Should Ask, Third Edition by The Council on Licensure, Enforcement and Regulation (CLEAR), page 5.) Similarly, the Department of Commerce and Consumer Affairs’ Professional and Vocational Licensing Division, which would be responsible for facilitating regulation of school psychologists, and the Regulated Industries Complaints Office, which would be responsible for enforcement of unregulated activity, would be challenged to regulate the profession without a definition of the practice.